



Fall 2002 Housing Roundtables

December 5, 2002, Oakland, California

Elihu Harris State Building, 1515 Clay Street, Second Floor, Room 10

December 10, 2002, Los Angeles, California

DFEH District Office, 611 West 6th Street, Suite 2840

BACKGROUND

During "Fair Housing Month" in April of 2002, the first Department of Fair Employment and Housing (DFEH)-sponsored housing roundtables were held in Oakland and Los Angeles, California. The purpose of these meetings was to raise awareness of current issues and to develop strategies for preventing housing discrimination in California. These meetings gave the Department an opportunity to create a forum where housing advocates, providers and other interested parties could meet and discuss ways to enhance communications and working relationships. DFEH could also, at this time, provide updates on fair housing laws, enforcement efforts and outreach activities. Due to the success of these meetings it was determined to schedule the roundtables on a regular basis. The fall 2002 meetings are the second in this series.

In June of 2002, DFEH delegates attended the National Fair Housing Conference held in Florida, where they participated in discussions and workshops on nationwide advancements in fair housing. Delegates also met with U.S. Housing and Urban Development (HUD) representatives to determine ways to keep dialogue open with constituents and to insure that California stays at the national forefront of fair housing advancements. It was then decided to include HUD representatives at the DFEH roundtable meetings to give participants the opportunity to receive important information first hand and to have questions answered directly from the source.

AGENDA

- I. Opening Remarks
- II. New DFEH/HUD Partnership Initiatives
- III. DFEH Reports
- IV. HUD Report
- V. Open Discussion - Issues and Recommendations
- VI. Closing Comments

I. OPENING REMARKS

After opening remarks, DFEH Director **Dennis Hayashi** introduced **Chuck Hauptman**, Director of the HUD Region IX, Office of Fair Housing and Equal Opportunity (FHEO), in San Francisco. Other HUD representatives included **Jeff Jackson**, San Francisco Program Operations Branch Chief (Oakland meeting) and **David Quezada**, Los Angeles Program Center

Director (Los Angeles meeting). DFEH introductions included: **Dia S. Poole**, Deputy Director Public Affairs, **Beth Rosen-Prinz**, Housing Regional Administrator, Housing District Administrators **Jaime Reyes** and **Susan Sheftel** (Oakland) and **Linda Harris** (Los Angeles), **Susan Saylor**, Oakland Staff Counsel, **Nora Baltierrez**, Southern California Mediation Program Administrator, and **Ron Whiten**, Northern California Mediation Program Administrator.

Housing advocates, fair housing councils/organizations, and human relations commissions participated in the morning sessions while housing providers, rental associations, property owners and managers attended the afternoon sessions.

II. NEW DFEH/HUD PARTNERSHIP INITIATIVE

Director Hayashi announced the receipt of funding to implement a new DFEH/HUD Partnership Initiative. The goal of the Initiative's two components is to increase the Department's overall housing enforcement efforts.

Resources from the Initiative's first component will be used to create a new housing unit in the Oakland district office. The benefits from these additional resources will be to expedite the complaint process and more thoroughly investigate complaints while meeting statutory deadlines. This unit will be under the direction of Wanda Kirby, Deputy Director of Enforcement Staff Operations, and Housing Regional Administrator Beth Rosen-Prinz.

The second component of the Initiative provides for the implementation of a Housing Mediation Program. This will be the first mediation program in the country to be sponsored by HUD and follows the highly successful DFEH Pilot Mediation Program (PMP) for employment discrimination cases. As with the PMP, which was established in 2001, this program will operate under the direction of Andrea Rosa, Deputy Director of Legislation and Policy, using DFEH contracted professional mediators. By giving housing enforcement the ability to resolve complaints without a lengthy investigation through mediation, the Department can better use its limited resources on the complaints that do merit full investigations.

Chuck Hauptman then summarized Region IX's accomplishments (covering California, Nevada, Hawaii, and Arizona), reporting that HUD obtained positive outcomes in 40 percent of the cases closed in Fiscal Year 2002 and reduced the number of aged cases to 10.9 percent. He stated that HUD also accepts complaints against federally-funded operations such as housing agencies and councils. He briefly explained the function of the Fair Housing Initiatives Program (FHIP), which is administered by FHEO to fund organizations developing programs to stop discriminatory housing practices. Hauptman then discussed the proposed Housing Mediation Program, HUD's first, and expressed hope for its success in expediting case processing. In closing, Hauptman encouraged advocates to file cases with DFEH while emphasizing, at the same time, how non-meritorious complaints hurt the effectiveness of civil rights.

III. DFEH REPORTS

A. Nora Baltierrez and **Ron Whiten** each gave a brief overview of the Housing Mediation Program stating that it will be patterned after the Department's present mediation program for employment issues. Concerns were expressed from the audience as to how the

process will be introduced to providers so that benefits are readily recognized. Baltierrez and Whiten outlined a plan to introduce and attract housing providers to the program through outreach and education. Baltierrez added that the benefits would be shown with a comparison between mediation as a no-cost alternative to an expensive and possibly lengthy litigation process. Testimony will also be used from participants pleased with the outcome of previous mediations.

B. Beth Rosen-Prinz reported on DFEH enforcement efforts and activities, which included the establishment of Oakland's new Housing Unit II. Housing District Administrator Susan Sheftel will oversee the newly formed unit, comprised of limited-term investigative consultants and support staff. Rosen-Prinz further explained that the unit's goal is to reduce aging cases (+100 days) and to increase the turnaround time of complaints. She outlined the general complaint process, the types of complaints accepted, and then described enforcement efforts, which were documented by statistics. She also commented on the new and revised housing publications soon to be available.

C. Dia Poole provided roundtable members with an update on the Department's outreach and education efforts. She further elaborated on the completion status of the housing publications through the Chico Project and gave a target date of June 2003. Poole commented on the new and revised brochures, posters and fact sheets stating that they will contain easy-to-read language, be updated with legislative changes, and provide the Americans with Disabilities Act public access information. She encouraged participants to check "What's New" on the web front page for recent developments and additional information. Poole also asked that DFEH be notified of attendee's contact information changes and thanked those who responded to the April 2002 interest survey.

D. Susan Saylor presented an update on recent legal developments that included Fair Employment and Housing Commission (FEHC or Commission) decisions and court cases.

The first case discussed was *Konig v. FEHC* (2002) 123 Cal Rptr.2d 1. This precedent-setting case went to the California Supreme Court which ruled in favor of the FEHC on July 29, 2002. In this decision, the Court recognized the Commission's authority to award emotional distress damages in housing discrimination cases. The issue decided was, in part, the Commission's ability to award emotional distress damages of \$10,000 for racially discriminatory refusal to rent (Gov. Code § 12987(4)). The Commission awarded compensatory damages upon a finding that the Respondent had engaged in an unlawful housing practice. For more information, click on [Housing Bulletin: Emotional Distress Damages](#).

DFEH v. Superior Court of Stanislaus County (2002) 99 Cal App.4th 896 was the second ruling discussed. It held that DFEH has a compelling interest in prohibiting discrimination that outweighed any privacy interest in rental applications and agreements. During DFEH investigation, the investigator asked the Respondent for: (1) current and past rental applications and rental agreements for subject property and (2) rental applications and agreements for all other properties owned or managed by the landlord for the last three years. The court held that these requests for information were an appropriate exercise of the Department's authority.

The third case noted was *Meyer v. Holley* (2003) 123 S.Ct. 824 which was argued before the U.S. Supreme Court Tuesday, December 3, 2002. The Department was fortunate to have present at the Roundtable plaintiff's counsel in the case (Elizabeth Brancart in Northern California, and Chris Brancart in Southern California) to explain the issues involved and to report on the oral argument. The main issue before the Court was whether the owners/officers of the corporations may be held vicariously liable for an employee's violations of the Fair Housing Act.

The Supreme Court's subsequent decision in this case stated that, rather than looking to the Fair Housing Amendments Act to determine questions of "vicarious liability," the courts should look to traditional principals of agency liability.

Recent FEHC Decisions was the last topic covered. Of particular note was the case of the *Department of Fair Employment and Housing v. Elebiari* (May 7, 2002) FEHC No. 02-11. The decision in this case states that people with disabilities are entitled to live with companion animals as a reasonable accommodation. Unfortunately, the Commission's decision was recently overturned on a Writ of Mandate to the Superior Court. The Department is monitoring the case.

IV. HUD REPORT

Chuck Hauptman then gave the HUD Report listing the goals, accomplishments, significant cases completed and Supreme Court actions of Region IX that includes California, Nevada, Hawaii and Arizona. He then informed the audience that one of FHEO's primary objectives is to eliminate housing discrimination against minorities and the disabled. Hauptman then explained the Strategic Plan objectives for 2002-2003 which include resolving complaints quickly, promoting public awareness of fair housing laws and improving housing accessibility to the disabled. Future outreach efforts include the following initiatives:

- ◆ Fund non-traditional organizations (i.e., churches) to conduct outreach on fair housing rights.
- ◆ Encourage and fund FHAP organizations to conduct outreach.
- ◆ Create a branch office in each HUD region dedicated to education and outreach.

Hauptman then listed HUD's Funded Partners in California, which include state and local fair housing enforcement organizations, and non-profit fair housing organizations. For further information about HUD's programs, call 1-800-347-3739 or visit www.hud.gov

V. OPEN DISCUSSION - Issues and Recommendations

In response to audience questions, and after a productive discussion, the following recommendations were made for the DFEH:

1. Develop a resource list for fair housing specialists to give complainants prior to beginning mediation.
2. Link the DFEH web site to HUD's web site.

Minority Groups Outreach

- ◆ Determine what discrimination information is given to persons applying for citizenship.
 - ◆ Find out if the DFEH can attend or be included in public programs with the Immigration and Naturalization Service.
 - ◆ Investigate the possibility of using the California Chamber of Commerce as a link to various communities for outreach purposes, as do housing providers.
 - ◆ Develop/translate publications in other languages.
4. Explore the possibility of establishing a mediation program to address issues of discrimination in public accommodations, which are violations of the Unruh Civil Rights Act, also enforced by DFEH.

Additional recommendations from the floor included requests for the development of fact sheets on several critical issues geared specifically towards small housing providers. Suggested fact sheets included were:

- a) Familial Status - A large portion of housing providers are not familiar with the laws and regulations regarding children.
- b) Source of Income - Many providers don't know what is considered income, how it is counted or how it is applied towards determining eligibility for federal programs, etc.
- c) Companion Animals - The definition of a companion animal as it pertains to housing with the associated laws and legal guidelines.
- d) Reasonable Modification - A fact sheet that clearly delineates the rights and responsibilities of landlords and disabled tenants, and explains legal responsibilities of developers/architects on new construction for private homes and multifamily (3+) units.
- e) Religious Discrimination - Include information (pertaining, in general, to employment) in the wake of 9/11 regarding the carrying of a ceremonial dagger or the wearing of a turban.

VI. CLOSING COMMENTS

In closing, Director Hayashi invited all in attendance to collaborate with DFEH on significant housing discrimination issues. He asked for help in identifying impact cases in order to devote our combined resources towards overcoming systemic housing discrimination in California. He also requested input on ways to improve DFEH and asked what they could do to help DFEH in our common goals. Hayashi thanked everyone for their valued input and participation.

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